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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/799,079

03/12/2004

Malcolm Ball

24080-RA

8540

30184

7590

05/04/2005

MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.  
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ATLANTA, GA 30339

EXAMINER

LOCKETT, KIMBERLY R

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/799,079

Applicant(s)

BALL, MALCOLM

Examiner

Kim R. Lockett

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/17/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**-DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 10 -21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henley, Jr. in view of Sielaff.

Henley, Jr. discloses the use of a stringed instrument pick, comprising an approximately L-shaped configuration defined by a first face with a raised grip pad, the raised grip pad having an angled edge adapted to be received by and interface with a groove of a fingerprint or a thumbprint and a second face (see figure 1).

Henley does not disclose the use of a curved and sloped peripheral lip that is adapted to engage the natural curvature of a user's finger or thumb surface.

Sielaff discloses the use of a stringed instrument pick with a curved peripheral lip (see figure 5 and 7).

It would have been obvious to one of ordinary skill the art in the time the invention was made to modify the pick as disclosed by Henley with the peripheral lip as disclosed by Sielaff in order to provide a pick that is capable of being easily grasped.

3. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henley, Jr. in view of Sielaff and Jonathan.

Henley, Jr. discloses the use of a stringed instrument pick, comprising an approximately L-shaped configuration defined by a first face with a raised grip pad, the raised grip pad having an angled edge adapted to be received by and interface with a groove of a fingerprint or a thumbprint and a second face (see figure 1).

Henley does not disclose the use of a curved and sloped peripheral lip that is adapted to engage the natural curvature of a user's finger or thumb surface.

Sielaff discloses the use of a stringed instrument pick with a curved peripheral lip (see figure 5 and 7).

Henley and Sielaff do not disclose the use of a raised grip pad on the second face.

Jonathan discloses the use of a stringed instrument pick with a first and second faces and a grip pad (3) on the first and second faces.

It would have been obvious to one of ordinary skill the art in the time the invention was made to modify the pick as disclosed by Henley with the peripheral lip as disclosed by Sielaff and the raised grip pads on the first and second faces in order to provide a pick prevents the shifting of the guitar pick.

4. Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center at 703-872-9306.


For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC)** whose telephone

Art Unit: 2837

**number is 800-786-9199.** Assistance is also available on the Internet at [www.uspto.gov](http://www.uspto.gov).

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett** whose telephone number is **(703) 308-7615, after 2/3/04 my new number will be (571) 272-2067**. The examiner can normally be reached on Tuesday through Friday from 6:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107.

  
**KIMBERLY LOCKETT**  
**PRIMARY EXAMINER**